



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG - 6 2014

OFFICE OF
GENERAL COUNSEL

Christopher Horner
Senior Fellow
Competitive Enterprise Institute
1899 L Street, NW, 12th Floor
Washington, D.C. 20036

Re: Freedom of Information Act Request No. EPA-HQ-2014-006434

Dear Mr. Horner:

I am writing in regard to your e-mails of August 1 and 5, 2014 concerning EPA's interim response to your FOIA request, EPA-HQ-2014-006434. You correctly noted that the cover letter accompanying EPA's production of records to you on July 30, 2014 was an incorrect version of a letter. By this letter I am correcting the response to you and providing you with answers to questions you posed in your emails.

By letter dated June 12, 2014, the Office of General Counsel ("OGC") notified you that it had collected records responsive to your request, and intended to comply with your request for records by releasing non-exempt, responsive portions of records and withholding other records or portions of records under 5 U.S.C. §552(b)(5) & (6). OGC has finished its search and review of documents responsive to your request. On July 30, 2014 my office provided you with the first set of responsive documents. In that production, portions of 1 document have been withheld under 5 U.S.C. §552(b)(6), Personal Privacy. These portions of documents contain personal information which would be an unwarranted invasion of personal privacy if released.

Your email requested that EPA provide you with an enlarged copy of one page of the PDF released to you on July 30, 2014 because the font size was too small to be legible. EPA attempted to correct the issue of font size by converting the file to PDF again, but was unable to determine why the font on this document becomes smaller when converted. I am providing as an attachment to the email transmitting this letter, an electronic copy of the document which should permit you to zoom in using Adobe Reader and read the text. Please notify us if you are still unable to read this file.

Your email also indicated you believed EPA improperly conducted its search for records to focus on records involving you. EPA utilized the following search terms that you provided to conduct an electronic search for records: (Mccarthy AND text) OR (Mccarthy AND SMS) OR (Gina AND text) OR (Gina AND SMS). My office did identify numerous emails collected in this search as not responsive because the email did not relate in any way to text messaging, the

subject matter of your request. For example, numerous false positives appeared using such broad search terms if the email contained both terms but in an entirely unrelated context (e.g. "The *text* of the Clean Air Act provided the EPA with the framework for a rulemaking, which was signed today by *Gina* McCarthy.") Please let me know if you have further questions about the search terms utilized by EPA to respond to your request.

Finally, OGC has located approximately 400 documents that are being withheld in part under 5 U.S.C. §552(b)(5), the Deliberative Process Privilege, the Attorney Client Privilege, the Attorney Work Product Privilege and/or 5 U.S.C. §552(b)(6) Personal Privacy. OGC is finishing the review and redaction of this material at this time.

OGC notified you of unusual circumstances in our letter of June 12, 2014. OGC will require a brief extension of time to complete redactions on the documents identified for release in part. The Office of General Counsel expects to provide you with this final production on or before August 29, 2014, and will provide you appeal instructions at that time. In the interim, please contact Lynn Kelly of my staff at 202-564-3266 or via email at kelly.lynn@epa.gov with questions regarding the status of your request. In addition, you may contact the EPA FOIA Public Liaison, Larry Gottesman, at 202-566-1667 or Gottesman.larry@epa.gov, to assist with this matter.

Sincerely,

For 

Geoff Cooper
Acting Associate General Counsel
General Law Office
Office of General Counsel